

The Jeanne Clery Disclosure of  
Campus Security Policy and  
Campus Crime Statistics Act

2018

SUNY Empire State College  
**ANNUAL SAFETY AND  
SECURITY REPORT**

Rochester

Crime reporting for calendar year 2017



## ANNUAL SECURITY REPORT

### FOREWORD

On behalf of the college community, welcome to SUNY Empire State College.

This report is filed as required by the federal “Crime Awareness and Campus Security Act,” (hereafter referred to as the Campus Safety Act) which was last amended in 2008. The purpose of this report is to provide our faculty, staff and students with campus safety information including crime statistics and crime reporting procedures.

At Empire State College, our foremost concern is the safety and well-being of the students, faculty, staff and visitors. The Office of Public Safety is dedicated to providing services to maintain and improve the safety, security and quality of life within our community.

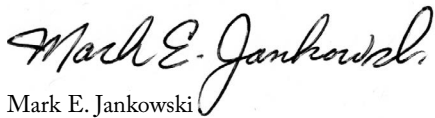
Empire State College, which was first established in 1971, is a nontraditional, open college of the State University of New York system. The college educates more than 17,500 students worldwide at seven international sites, more than 30 locations in the state of New York, online, as well as face to face and through a blend of both, at the associate, bachelor’s and master’s levels. The average age of our undergraduate students is 35 and for graduate students is 40.

The college provides an extensive array of campus security programs and procedures which are described on the following pages. Our continuing effort to improve safety has led us to implement several initiatives. While this report is updated annually, we encourage you to check on the Office of Public Safety website for periodic updates on campus security, and safety and victim support programs.

While the college has developed several policies and procedures to ensure that students and their possessions are protected, it is primarily the responsibility of the student, faculty or staff member to provide for his or her own safety and security by taking simple, common sense precautions, and by reporting concerns and information to the Office of Public Safety and other administrative officials.

Empire State College strives to promote and maintain a campus environment conducive to academic achievement. A truly safe campus can only be achieved through the cooperation of the entire college community. With your help and participation and our commitment, we are confident that the time you spend at the college will be safe and productive.

Sincerely,



Mark E. Jankowski  
Director of Public Safety and Emergency Management

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## I. CONTACT INFORMATION

**SUNY Empire State College**  
**Office of Public Safety, 2 Union Ave., Main Office**  
**518-587-2100, ext. 2800 or 800-847-3000, ext. 2800**

### **(After normal business hours) Emergency Incident Reporting**

518-587-2100, ext. 2899/Emergency

### **Emergencies**

#### **Local Fire, Police and Ambulance**

Access an outside line if applicable and Dial 911

### **College Offices**

**2 Union Ave., Saratoga Springs, NY 12866-4390**

Office of Human Resources – 518-587-2100, ext. 2240

Office of Administration – 518-587-2100, ext. 2233

Office of Academic Affairs – 518-587-2100, ext. 2263

Office of Communications and Government Relations – 518-587-2100, ext. 2494

### **Old Location** (Clery Statistics from 2015 and 2016)

1475 Winton Road North

Rochester, NY 14609-5803

Phone: 585-224-3200

Fax: 585-224-3299

### **New Location**

680 Westfall Road

Rochester, NY 14620

phone 585-224-3200

fax 585-224-3299

[www.esc.edu/genesee-valley/locations/rochester/](http://www.esc.edu/genesee-valley/locations/rochester/)

*Campus security authorities are identified at each of the colleges regional locations*

### **Additional Resources**

**New York State Domestic Violence hotline – 800-942-6906**

<http://www.nyscadv.org/>

## II. CAMPUS CRIME STATISTICS

### Location: Rochester

### Statistics from Brighton Police Department included in this report.

#### SUNY Empire State College does not utilize residence halls.

| Category   | Statistical Year | All On Campus Property |      |      | Noncampus Property |      |      | Public Property |      |      | Unfounded* |
|--|------------------|------------------------|------|------|--------------------|------|------|-----------------|------|------|------------|
|  |                  | 2015                   | 2016 | 2017 | 2015               | 2016 | 2017 | 2015            | 2016 | 2017 |            |
| <b>Part I Primary Crimes</b>   |                  |                        |      |      |                    |      |      |                 |      |      |            |
| <b>a. Criminal homicide</b>  |                  |                        |      |      |                    |      |      |                 |      |      |            |
| 1. Murder/Non-negligent manslaughter   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| 2. Negligent manslaughter  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>b. Sex offenses</b>   |                  |                        |      |      |                    |      |      |                 |      |      |            |
| 1. Rape  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| 2. Fondling  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| 3. Incest  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| 4. Statutory rape  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>c. Robbery</b>  |                  |                        |      |      |                    |      |      |                 |      |      |            |
| d. Aggravated assault  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>e. Burglary</b>   |                  |                        |      |      |                    |      |      |                 |      |      |            |
| f. Motor vehicle theft   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>g. Arson</b>  |                  |                        |      |      |                    |      |      |                 |      |      |            |
|  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>Part II Drug Alcohol and Weapons</b>  |                  |                        |      |      |                    |      |      |                 |      |      |            |
| a. Weapons possession  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| b. Drug abuse violations   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| c. Liquor law violations   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| d. Weapons possession referrals  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| e. Drug abuse referrals  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| f. Liquor law referrals  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| <b>Part III Hate Crimes – There were no hate crimes reported for the calendar year 2017.</b> |                  |                        |      |      |                    |      |      |                 |      |      |            |
| <b>Part IV VAWA Crimes</b>   |                  |                        |      |      |                    |      |      |                 |      |      |            |
| a. Domestic violence   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 1    | 0    | 0          |
| b. Dating violence   |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |
| c. Stalking  |                  | 0                      | 0    | 0    | 0                  | 0    | 0    | 0               | 0    | 0    | 0          |

No relevant crimes reported to SUNY Empire State College.

#### \*Unfounded Crimes

The total number of unfounded crimes should include all criminal offenses, hate crimes, arrests or disciplinary action referrals for weapons, drug or liquor law violations, and domestic violence, or stalking incidents that have been unfounded.

If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is “unfounded.” Only sworn or commissioned law enforcement personnel may unfound a crime.

Unfounded crimes are counted in the year in which they were originally reported.

### III. CRIME DEFINITIONS

#### A. Clery Offenses (Federal Offense Definitions)

- *Aggravated assault*: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.
- *Arson*: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- *Burglary*: The unlawful entry into a building or other structure with the intent to commit a felony or a theft.
- *Crime or a public offense*: An act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments – death; imprisonment; fine; removal from office; or disqualification to hold and enjoy any office of honor, trust or profit in this state.
- *Domestic violence*: violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
- *Dating violence*: violence committed by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
- *Drug abuse*: Violations of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use.
- *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent incapacity.
- *Hate crime*: Any act of intimidation, harassment, physical force or the threat of physical force directed against any person or family, or their property or advocate, motivated either in whole or in part by hostility to their real or perceived race, ethnic background, national origin, religious belief, sex, age, disability or sexual orientation, with the intention of causing fear or intimidation, or to deter the free exercise of enjoyment of any rights or privileges secured by the Constitution or the laws of the United States or the State of New York whether or not performed under the color of law (Source – Definitions Used in Hate Crimes Reporting, P.O.S.T. Hate Crimes Student Workbook, January 1992 p. 2).
- *Incest*: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- *Larceny – theft*: The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another.
- *Liquor-law violation*: Violations of laws or ordinances prohibiting the manufacture, purchase, transportation, possession or use of alcoholic beverages.
- *Murder and non-negligent manslaughter*: The willful (non-negligent) killing of one human being by another.
- *Negligent manslaughter*: The killing of another person through gross negligence.
- *Rape*: The penetration, no matter how slight of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- *Robbery*: The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- *Sex offenses*: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent
- *Stalking*: A course of conduct directed at specific person that would cause a reasonable person to fear for her, his or others' safety or to suffer substantial emotional distress.
- *Statutory rape*: Nonforcible sexual intercourse with a person who is under the statutory age of consent
- *Vehicle theft*: The theft or attempted theft of a motor vehicle.
- *Weapons*: Violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons.

## B. New York State Law Definitions

Violence against women act specific definitions: The Violence Against Women Act and its proposed regulations require the inclusion of certain New York state definitions in a campus's Annual Security Report and also require that those definitions be provided in campaigns, orientations, programs and trainings for employees and students. Definitions required include: affirmative consent, dating violence, domestic violence, sexual assault and stalking.

### AFFIRMATIVE CONSENT

Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given in words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression.

- Consent to any sexual act or prior consensual sexual activity with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be withdrawn at any time.
- Consent cannot be given when a person is incapacitated, i.e., when he or she lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given under conditions of coercion, intimidation, force, or threat of harm.
- When consent is withdrawn, or can no longer be given, sexual activity must stop.

**DATING VIOLENCE** – New York state does not specifically define “dating violence”. However, under New York Law, intimate relationships are covered by the definition of domestic violence when the act constitutes a crime listed elsewhere in this document and is committed by a person in an “intimate relationship” with the victim. See “Family or Household Member” for definition of “intimate relationship.”

**DOMESTIC VIOLENCE** – An act which would constitute a violation of the penal law, including, but not limited to, acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of 16, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

**FAMILY OR HOUSEHOLD MEMBER** – Person's related by consanguinity or affinity; persons legally married to one another; person formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an “intimate relationship” include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature, the frequency of interaction between the persons and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship;” any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

**PARENT** – Means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

**SEXUAL ASSAULT** – New York state does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest or statutory rape as used in the FBI's UCR program.

**SEX OFFENSES; LACK OF CONSENT** – Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

**SEXUAL MISCONDUCT** – When a person (1) engages in sexual intercourse with another person without such person's consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person's consent; or (3) engages in sexual conduct with an animal or a dead human body.



**RAPE IN THE THIRD DEGREE** – When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

**RAPE IN THE SECOND DEGREE** – When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than 4 years older than the victim at the time of the act.

**RAPE IN THE FIRST DEGREE** – When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**CRIMINAL SEXUAL ACT IN THE THIRD DEGREE** – When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) being 21 years old or more, with a person less than 17 years old; (3) with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

**CRIMINAL SEXUAL ACT IN THE SECOND DEGREE** – When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than 4 years older than the victim at the time of the act.

**CRIMINAL SEXUAL ACT IN THE FIRST DEGREE** – When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**FORCIBLE TOUCHING** – When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. It includes squeezing, grabbing or pinching.

**PERSISTENT SEXUAL ABUSE** – When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous 10-year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

**SEXUAL ABUSE IN THE THIRD DEGREE** – When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than 5 years older than such other person.

**SEXUAL ABUSE IN THE SECOND DEGREE** – When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

**SEXUAL ABUSE IN THE FIRST DEGREE** – When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.

**AGGRAVATED SEXUAL ABUSE** – For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

**AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE** – When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

**AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE** – When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

**AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE** – When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

**AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE** – When a person subjects another person to sexual contact: (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old and the actor is 21 years old or older.

**COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE** – When over a period of time, not less than three months, a person: (1) engages in two or more acts of sexual conduct with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.

**COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE** – When a person over a period of time, not less than three months in duration, a person: (1) engages in two or more acts of sexual conduct, or aggravated sexual contact with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact with a child less than 13 years old.

**FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE** – A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

**INCEST IN THE THIRD DEGREE** – A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

**INCEST IN THE SECOND DEGREE** – A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

**INCEST IN THE FIRST DEGREE** – A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

**STALKING IN THE FOURTH DEGREE** – When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, phoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, phoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

**STALKING IN THE THIRD DEGREE** – When a person: (1) commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding 10 years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

**STALKING IN THE SECOND DEGREE** – When a person: (1) commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, sligshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an

immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of 14 or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of 14 in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against 10 or more persons, in 10 or more separate transactions, for which the actor has not been previously convicted.

**STALKING IN THE FIRST DEGREE** – When a commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.

#### **IV. OFFICE OF PUBLIC SAFETY**

The Office of Public Safety at SUNY Empire State College oversees security operations for the college. The office serves as an administrative oversight for security operations at the Coordinating Center in Saratoga Springs and collegewide. The office works closely with law enforcement agencies and first responders throughout New York to ensure a safe, secure and conducive learning environment for our students and a professional work environment for our faculty and staff.

Safety is everyone's responsibility. The college community is a great place to work; however, it is not immune to the types of problems seen throughout society. Unfortunately, crime is a reality at every location of Empire State College.

The college's goal is to provide a safe and secure environment for students, staff and visitors. However, it is only possible to maintain safety and security when every student and staff member takes an active part in the effort.

The purpose of this publication is to:

- Provide an overview of the Office of Public Safety;
- Share crime statistics required by the Jeanne Clery, Disclosure of Campus Security Policy and Campus Crime Statistics Act;
- Inform current and prospective students, staff and visitors about the policies and programs designed;
- Provide information regarding emergency preparedness and planning;
- Distribute public information regarding fire safety and fire-related information.

#### **V. COLLEGE LAW ENFORCEMENT**

SUNY Empire State College's Office of Public Safety is located in Saratoga Springs. In conjunction with local law enforcement and individual facility management at our various locations, the office works to ensure the overall safety of the college community as a whole. The office is staffed during business hours only, and does not provide 24/7 coverage. The office works cooperatively with law enforcement agencies having jurisdiction at each Empire State College location, and has forged memorandums of understanding for the investigation of crimes. All federal, state and local laws apply at Empire State College. Representatives of the Office of Public Safety serve an administrative function and do not have law enforcement authority.

While we have developed policies and procedures to ensure that students and their possessions are protected as much as possible, it is primarily the responsibility of the student, faculty or staff member to provide for his or her own personal safety.

#### **VI. THE JEANNE CLERY ACT**

##### **Compliance Statement: The Crime Awareness and Campus Security Act of 1990**

##### **A. Clery Campus Crime Statistics**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act is the federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose information about crime on and around their campuses. The Clery Act also requires reporting crimes on public property not owned or controlled by the college. (SUNY Empire State College is a nonresidential college.)

Colleges and universities are required to publish an annual report every year that contains three years' worth of campus crime statistics and certain security policy statements including sexual assault policies that assure basic victims' rights, the law enforcement authority of campus police, Security/Public Safety and where students should report crimes. The report is to be made available to all current students and employees. Prospective students and employees are to be notified of its existence and given an opportunity to request a copy. It remains the responsibility of the Office of Public Safety for the collection of crime reports and distribution of the annual crime statistics and report by Oct. 1 of each calendar year.

The SUNY Empire State College “Annual Safety and Security Report” is available to all current and perspective Empire State College students and employees upon request.

The “Annual Safety and Security Report” includes:

- Statistics on the number of on-campus murders, rapes, robberies, aggravated assaults, burglaries, motor vehicle thefts, bias-related crimes and arrests for weapons possessions and liquor and drug abuse violations;
- Policies regarding security, access to college and other facilities, and college law enforcement;
- Procedures for reporting crimes and other emergencies;
- Information on college sexual assault and rape awareness programs, procedures to follow when a sex offense occurs, disciplinary action procedures, counseling opportunities and notification to students that Empire State College will make reasonable changes of a victim’s academic situation if the victim so chooses;
- Policies on the use, possession and sale of alcoholic beverages and illegal drugs; and
- A description of Empire State College programs informing the campus community about alcohol and drug abuse education, crime prevention and campus security practices.
- Sex offender registry information, New York State Sex Offender Registry and New York State Sex Offender Registry home page at [www.criminaljustice.ny.gov/](http://www.criminaljustice.ny.gov/). You also can call 800-262-3257.
- Procedures for emergency response, emergency communications and emergency evacuation procedures.

## **B. Geographic Locations Used Under the Clery Act**

- *On Campus:* Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
- *Noncampus Building or Property:* Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.
- *On Public Property:* All public property, including thoroughfares, streets, sidewalks and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

## **C. Safety and Security – Our Responsibility**

The Office of Public Safety is responsible for compiling and disseminating the Campus Safety Report annually as required by the Federal Student Right-to-Know Law and Campus Security Act, which was signed into law November 1990. The purpose of this report is to provide Empire State College faculty, staff, students and prospective students with campus safety information including crime statistics and procedures to follow in order to report a crime. Title II of this act was known as the Crime Awareness and Campus Security Act, which was amended and renamed in 1998 to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, known as the Clery Act. The Clery Act mandates that institutions receiving Title IV federal funds disseminate crime statistics for certain serious offenses that occurred on campus and in adjacent areas for the current reporting year and the previous two calendar years.

### **Definitions**

- 1) On an annual basis, the Office of Public Safety solicits information from any and all law enforcement agencies with geographical jurisdiction over any and all Empire State College locations about criminal activity reported to those agencies. The information requested outlines crimes reported to the agencies that happened on or near an Empire State College location or involved members of the college community.
- 2) This report of crimes reflects but is not limited to crimes outlined under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).
- 3) The Office of Public Safety compiles data as outlined under the Clery Act and makes them available annually to the college community. Upon request, these data shall be provided to prospective students and employees.
- 4) Data obtained and reported to the Office of Public Safety is held for seven years after an individual year report is published.

## D. SUNY Empire State College, the New York State Campus Safety Act, Compliance Statement

- Empire State College acknowledges the importance of campus safety and investigating crime. By means of this statement Empire State College adheres to formal plans that provide for the investigation of missing students and violent felony offenses committed on campus. Memorandums of understanding throughout New York have been executed with various local law enforcement agencies to specifically address this issue.

### What is the New York State Campus Safety Act?

This law was enacted in 1999. It was prompted by the unexplained disappearance of Suzanne Lyall from the State University of New York at Albany campus in 1998. The reforms made by this law acknowledge that improving campus safety must begin with swift and efficient investigative action and optimum access to missing person information by student's families and the public. The act:

- Requires all public, private, community colleges and universities in New York to have formal plans that provide for the investigation of missing students and violent felony offenses committed on campus;
- Expands the responsibilities of the NYS Division of Criminal Justice Services (DCJS) Missing and Exploited Children Clearinghouse to provide assistance with the dissemination of information about missing college students.

## E. Investigations of Missing Persons

### SUNY Empire State College Missing Person's Compliance Statement

A "missing student" or "missing person," means any student of Empire State College subject to provisions of section 355 (17) of the New York State Education Law. Empire State College does not operate or employ residence halls. Therefore, any and all persons reported missing to Empire State College, or the Office of Public Safety will be reported to the Saratoga Springs Police Department or law enforcement having immediate jurisdiction. In 2003, President George W. Bush signed into law "Suzanne's Law," requiring police to notify the National Crime Information Center (NCIC) when someone between 18 and 21 is reported missing, as part of the national "Amber Alert" bill.

## F. Memorandums of Understanding

Empire State College, [in accordance with the provisions of Procedure #3650, dated July 1, 2004, set forth by the State University of New York, Campus Conduct and Other College Property Used for Educational Purposes, and The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, codified at 20 USC 1092 (f), Crime Awareness and Campus Security Act of 1990 otherwise known as the Campus Safety Act] developed memorandums of understanding with local law enforcement to address enforcement of laws at the college, to assist in the reporting of missing persons and investigate and respond to violent felony crime under New York Penal Law §70.

## VII. CRIMINAL AND INCIDENT REPORTING

### A. Criminal Offense

If a criminal offense occurs at any of the college's locations, it must be reported immediately. Individuals who are victims of a crime at or near a college facility have the responsibility to report such acts to local police, college officials/campus security authority or the Office of Public Safety. If the incident is an immediate threat to health, life or safety, the first call should always be to the 911 center to alert the proper police agency within that location's jurisdiction. Once the caller is safe, then the Office of Public Safety must be notified. Emergency contact information for local police is located on the college safety and security website. During normal business hours, college officials will be available to assist victims and witnesses in reporting incidents to police. Criminal offenses occurring outside of normal business hours should be reported directly to local law enforcement. The college also has established an after-hours emergency incident reporting number for Public Safety; this number is 518-587-2100, ext. 2899.

### B. Incident Reporting Procedure

#### SUNY Empire State College Incident Reporting Procedural Statement

##### Purpose

Establish guidelines to assist Empire State College community members in reporting of incidents that may occur to students, faculty and staff. Empire State College is regulated by statute to report specific criminal incidents that have direct correlation to the college. The guidelines that follow will assist individuals in reporting of incidents and streamline the notification process.

##### Definitions

- *Incidents:* An incident may be defined as an action or event that is, has or is going to occur, that has an effect on someone or something. For the purposes of this procedure an "incident" is a crime, emergency or incident immediately dangerous to life, health or to the college as a whole.

- *Incident report:* Official report taken by Empire State College with regards to an incident documenting information regarding said incident. A police agency report will serve as an official report under this definition.

## Incident Reporting, Criminal or Violent Behavior

All college staff, faculty and students are asked to assist in making the college a safe place by being alert to suspicious situations or persons and reporting them as outlined below. If you witness, are the victim of, or are involved in any on-campus violation of the law such as assault, robbery, theft or overt sexual behavior, local emergency police services should be called at 911 as soon as possible and the following information should be given:

- Nature of the incident
- Location of the incident
- Description of the person(s) involved, injured
- Description of the property involved

In addition, the individual should immediately report the incident to the Office of Public Safety. Crimes or incidents of a lesser nature including, but not limited to: property crimes, larceny and vandalism, are to be immediately reported to the executive director/regional operations coordinator (or designee). If an individual notices a person(s) acting suspiciously at a Coordinating Center location, he or she should contact the Office of Public Safety at 518-587-2100, ext. 2800. In all other locations, individuals should contact the executive director/regional operations coordinator (or designee) at the location who will determine if the police need to be contacted.

Incidents requiring medical attention should be reported to local emergency 911 officials. In addition, the individual should immediately report the incident to the executive director/regional operations coordinator (or designee).

In all instances, the Office of Public Safety will conduct an investigation with the police agency taking the initial report if applicable.

All Empire State College locations located on a SUNY college campus are required to adhere to that respective college's emergency notification system when incidents occur.

In the event of a critical incident or violent criminal act, Empire State College in conjunction and communication with local law enforcement will, in accordance with the Jeanne Clery Act (34 CFR 668.46(e)), issue a "timely warning" and/or "emergency notification" as directed by the Empire State College Emergency Notification and Timely Warning Policy.

## Identification of College Campus Security Authorities

The college has designated certain administrators and staff as "campus security authorities" in recognition that many students, faculty and staff may be hesitant about reporting crimes to local police or the Office of Public Safety, and may be more inclined to report incidents to nonlaw enforcement administrators and/or staff instead.

Campus security authorities are employees designated at various college locations that aid in the safety and security of the college community. Campus security authorities may be contacted when someone witnesses or sees an unsafe condition, believes that they are the victim of a crime, or is seeking a referral for drug or alcohol abuse. The college's Title IX coordinator (Elliott.Dawes@esc.edu) must be contacted in all cases of sex discrimination or sexual violence.

Campus security authorities are charged with reporting to appropriate law enforcement personnel (either the Office of Public Safety or local police), and college officials who should be made aware of the crime or complaint. A campus security authority is not responsible for determining whether a crime took place, as that is the function of law enforcement and its investigatory process, but rather responsible for making a good faith effort to report the incident and to help prevent further incidences.

A campus security authority is required to report all allegations to law enforcement personnel, even if the campus security authority was told of a crime in the context of providing emotional support or health care support. The allegations will be reported whether or not the victim chooses to file a report with law enforcement or press charges. A campus security authority also may provide a victim or witness with assistance in reporting a crime to the Office of Public Safety or local police, or to any official or office which should be informed of the crime or complaint.

Empire State College does not have on-site college counselors, but rather contracts with Talk One-2-One, which is a free 24/7 confidential, third-party, professional counseling service for students. Counseling is provided via telephone and if face to face counseling is requested, the phone counselor will help the student locate a provider. The student's first three sessions are free of charge and then the counselor will work within the student's health insurance network. These counselors are not campus security authorities, and are therefore exempt from disclosing or reporting allegations of crimes and incidents. However, if for example a dean with a Ph.D. in psychology provides assistance, he/she is acting in his/her role as a dean and not as a counselor. In this case, the dean would not be exempt from the Clery Act reporting requirements.

In addition, as required under, (34 CFR 668.46a), the college has designated certain administrative personnel as “campus security authorities:”

- Office of Public Safety, director and assistants/designees
- Executive vice president and assistant vice president for administration, and affiliate vice presidents
- Assistant vice president for human resources and labor relations, or designee
- Title IX coordinator/deputy Title IX coordinator
- Provost and vice provosts
- Director of collegewide student affairs, or designee
- Executive directors and regional operations coordinators
- Deans and associate deans
- Directors and coordinators
- President’s Advisory Committee on Security, Threat Assessment team members
- Director of collegewide disability services

### **C. Protection and Confidentiality**

Nothing in this report will be construed to permit the college, or an officer, employee or agent of the college, participating in any program under this title to retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual with respect to the implementation of any provision of this document.

Empire State College encourages students, faculty and staff to report all criminal activity that has occurred at an Empire State College location. The report of the criminal activity may be anonymous and the person may request confidentiality.

### **Disclosure of Policy Statement: Policy for Preparing and Reporting the Annual Disclosure of Crime Statistics**

The Office of Public Safety, in conjunction with the Office of Academic Affairs, Office of Administration and local law enforcement agencies, prepares this report to comply fully with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. Statistics are compiled in accordance with the Uniform Crime Reporting System of the Department of Justice and the Federal Bureau of Investigation.

Campus crime, arrest and referral statistics include those reported to the Office of Public Safety, and designated campus officials (including Office of Administration, Office of Academic Affairs, Office of the President, Office of Human Resource, academic deans, executive directors) and local law enforcement entities. Crimes are reported that occur on campus, on locations that are contiguous to the campus, and buildings or properties that are either owned or controlled by a campus affiliated entity.

College policy encourages every member of the campus community to report a crime promptly. Information is available and is provided to individuals in reference to voluntary confidential reporting procedures in the event a person does not want to pursue action either within the federal or state criminal justice system or within the university’s discipline system. A procedure is in place to capture crimes statistics which are disclosed anonymously to Office of Public Safety.

The data for the annual crime statistics is monitored daily. Every Empire State College campus has a designated campus security authority. The campus security authority, upon receiving notification of a criminal incident on Empire State College property, will verify the circumstances and put the information into the appropriate database. These crime statistics will be published as part of the Empire State College Annual Security Report. Current data also can be disseminated upon request. The campus security authority will inform the Office of Public Safety on an annual basis upon request the crime statistics reported to them for the previous calendar year. Data received from local law enforcement is compared to the college’s internal database to ensure accurate reporting.

Each year, an email notification is made to all enrolled students, faculty and staff that lists the website to access this report. Copies of the report also may be obtained at the Office of Public Safety located at 2 Union Ave., Saratoga Springs NY 12866-4390. All prospective students may obtain a copy by calling the Office of Public Safety, the undergraduate or graduate admissions office, or by visiting the website at [www.esc.edu/SafetyandSecurityAnnualReport](http://www.esc.edu/SafetyandSecurityAnnualReport).

All prospective employees may obtain a copy by calling the Office of Public Safety or by visiting the above website.

Of note, the federal Clery Act may define a particular crime differently than it is defined under the New York State Penal Code. For the purposes of this report, the university uses the Clery Act definitions of crimes. Please see herein for the Clery Act definitions.

## D. Daily Crime Log

In accordance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Empire State College maintains a “daily crime log.” The information contained in this log identifies incidents and or crimes reported to the Office of Public Safety, occurring on or near a college facility. The information contained in this log identifies, but is not limited to, the nature of the crime reported to security or law enforcement, dates and times the incident was reported and occurred, the general location of the incident or crime and the disposition of the complaint if known. The crime log is available for public viewing during normal business hours at the Office of Public Safety in Saratoga Springs. The log also may be viewed at one of our regional locations, upon request through the executive director’s office. The most recent 60-day period is open to public inspection, upon request, during normal business hours. Anyone may ask to see the log, whether or not they are associated with the college.

## VIII. TIMELY WARNING PROCEDURES

### A. Timely Warnings and Emergency Notifications to the College Community, Procedure

#### What Constitutes an “Emergency” at SUNY Empire State College?

Below is a list of emergency situations identifying the most common types of emergency notifications. Any emergency where the health and/or human safety at Empire State College are in question may constitute an “emergency.” The list is not inclusive:

- *Bomb threat* – based on credible intelligence that indicates a threat.
- *Civil disturbance* – disruption of normal college activities by a group of people.
- *Fire* – fire to building(s), wildfires, local community or industry that may endanger college students, faculty, staff or property.
- *Hazardous material* – dangerous material that is chemical, biological or nuclear spreading from a contained area.
- *Major road closing/incident* – unanticipated event that would disrupt safe passage to and from college.
- *Medical emergency* – pandemic or an event with mass casualties.
- *Personal safety* – situations that include use of weapons, violence, perpetrator(s) at large, active shooter and hostage situation or missing persons. Any situation, on or off college that, in the judgment of the local authorities, the college president or his designee, constitutes an ongoing or continuing threat to person or property.
- *Suspicious package* – reasonable belief that a package may contain chemical, biological, explosive, radiological or nuclear substance that would cause harm to persons or property.
- *Utility failure* – a major disruption or damage to utilities including gas, electrical or water.
- *Weather* – severe weather conditions to include flooding, snow/ice/cold, thunderstorm, wind, tornado or hurricane.
- *Natural disasters* – such as earthquakes.

### Ways to Communicate These Issues

#### For Safety Related Issues

Methods of communication will be chosen based on the nature of the incident. A decision will be made on notification methods by the vice president for administration and/or vice president for communications and government relations.

#### For General Notification

- Email to all students and/or faculty/staff affected.
- Postings in college facilities, and on campus as applicable to the incident. Postings can be emailed as attachments to various offices as indicated below.
- Delivery of hard-copy notification to all college offices
- ESC Alert (Rave Mobile Safety) (alert.esc.edu) in the case of a critical collegewide emergency
- Posting of notification on Office of Public Safety
- Text messaging, if applicable
- Social media sites



- Post to MyESC and Exchange

### **For Non-Life Threatening Health Related Issues**

- Letters to students, faculty and staff
- Posting of notification on the college website at [www.esc.edu](http://www.esc.edu)

### **Procedure to Follow**

For information that is believed to be of interest or concern to the entire college population, the executive vice president for administration will typically notify the Office of the President in advance of sending a collegewide notification.

### **What warrants a “timely warning” or “emergency notification?”**

SUNY Empire State College will issue timely warnings for a specific college location or collegewide, depending on the circumstances. Whenever a crime is reported to the Office of Public Safety, or a local police agency, represents a serious or continuing threat to students and employees, a timely warning will be sent to the entire affected community.

Emergency Notifications will be issued, when the college is made aware of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and/or employees at a specific college location. As appropriate, emergency notifications may be targeted at the segment or segments of the college community that are at risk. Emergency notifications will be issued without delay unless doing so would compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

The vice president for administration, or in his or her absence, the assistant vice president for administration, in conjunction with the director of public safety and emergency management, and/or other college and noncollege officials as appropriate, will confirm the existence of a situation that may warrant a timely-warning notification and determine the extent of the notification as appropriate. In addition to criminal incidents, emergency notifications may be issued in situations such as, but not limited to:

### **Safety Related Issues**

- An incident that occurs in close proximity to any of the college campuses that may potentially affect the personal safety and security of our student, faculty and staff population.

### **Health Related Issues**

- A member of our population is diagnosed with a serious or life threatening communicable/infectious disease.
- Evidence of bio terrorism.

## **B. Emergency Preparedness, Response and Evacuation Procedures**

In the event that a situation arises, either on or off campus, that, in the judgment of the director of public safety and emergency management, in conjunction with the vice president for administration/designee, constitutes an ongoing or continuing threat to the campus population, a collegewide timely warning will be issued.

### **Emergency Management Plan Synopsis**

This collegewide Comprehensive Emergency Management Plan is designed to outline a plan of action so that emergencies can be dealt with immediately in a logical and coherent manner. The intention of the Emergency Management Plan is not to establish policy, but to create a framework that will allow an immediate response to an emergency.

This plan is the result of the recognition by college officials that there is a responsibility to manage emergency and disaster situation on campus and coordinate with all public safety and local government officials. The college recognized that a comprehensive plan was needed which was compliant with HSPD-5, including the National Incident Management Systems (NIMS). The plan also must be consistent with, and closely linked to, county and state plans.

The Comprehensive Emergency Management Plan designates college security, public safety and local police as the initial contact for reporting all emergency situations and as the central point of communication during the response and resolution of all emergencies.

The Comprehensive Emergency Management Plan is designed to maximize human survival and preservation of property, minimize danger, restore normal operations to Empire State College and assure responsive communications with the college campus community, surrounding regions and the cities in which we function within.

This plan is set in operation whenever a natural or induced emergency reaches proportions that cannot be handled by established measures.

A crisis may be sudden and unforeseen, or there may be varying periods of warning. This plan is intended to be sufficiently flexible to accommodate contingencies of all types, magnitudes and duration.

The Empire State College Comprehensive Emergency Management Plan is put into effect whenever a crisis, manmade or natural, disrupts operations, threatens life, creates major damage or occurs within the college community and its environments.

## **Emergency Response and Evacuation Procedures**

**Under the collegewide Comprehensive Emergency Management Plan (CEMP), the college practices regular emergency evacuation drills and fire safety drills.**

An emergency or crisis situation can arise at SUNY Empire State College any time and from many causes. Emergencies can range from chemical spills and, fires to bomb threats and explosions, natural disasters and civil disturbances such as riots or labor unrest.

The SUNY Empire State College, collegewide Comprehensive Emergency Management Plan is a procedural document, which incorporates the Incident Command System for organizing, coordinating and directing available resources toward the control of an emergency. The plan includes a chain of command establishing the authority and responsibility of various individuals. In emergencies, procedures sometimes must be changed at an instant's notice; therefore, responsible and knowledgeable persons who know the procedures have the authority to make necessary modifications.

### **Procedure to follow**

For information that is believed to be of interest or concern to the entire college population, the threat-assessment team, in conjunction with the Office of Public Safety, and the vice president for administration, will typically notify the Office of the President in advance of sending a collegewide notification.

The college will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency.

### **ESC Alert (Rave Mobile Safety)**

The college's mass notification system, powered by Rave Mobile Safety, provides emergency and timely notifications broadcast across multiple channels including email, text message and RSS (displayed on college websites). All active students with an enrollment within the past 18 months, newly accepted applicants within the past 12 months, and active employees are automatically added to the system. The college automatically notifies via official email address on record. If individuals wish to be notified via text message, or additional email addresses or devices, they should add their additional information to their account at <http://alert.esc.edu>. Because emergency and timely notifications are a public safety obligation, the college cannot allow anyone to opt out. For more information about ESC Alert, please visit [www.esc.edu/safety-security/esc-alert](http://www.esc.edu/safety-security/esc-alert).

## **C. SUNY Empire State College Community Responsibility**

All Empire State College community members, including active students with an enrollment within the past 18 months, newly accepted applicants within the past 12 months, and active employees, are encouraged to review their profile at <http://alert.esc.edu>; Empire State College will use ESC Alert as the primary method to communicate emergencies and timely notifications to the college community.

### **Empire State College Locations on SUNY or Community College Campuses**

- All Empire State College locations residing on a SUNY college campus are required to adhere to that respective college's emergency notification system when incidents occur.
- When Empire State College employees are notified of an incident on a SUNY college campus that requires that they take action, the Office of Public Safety at the Coordinating Center should be immediately notified by the executive director or designee.

## **IX. BUILDING SECURITY**

### **A. Access to Facilities and Security of Building**

Most college locations are open to the public during normal business hours. At night and during periods when classes are not in session, college buildings are generally locked. A security access card system is utilized at various locations. Faculty, staff and a limited number of students, with proper identification are issued keys/access cards to gain entry into buildings. Individuals assigned access cards or keys are responsible for reporting them missing, lost and/or stolen. Saratoga Springs locations offer a key card access control system for all employees to utilize in gaining access to secure facilities. Additionally, other monitoring devices have been employed to assist with the overall general safety of the community. Empire State College utilizes various facilities statewide, security at each of our locations may vary slightly depending on existing infrastructure and inbuilding services provided by individual landlords. Specific questions on a particular locations security may be directed through the Office of Public Safety or the executive director, or the regional operations coordinator's office for that specific location.

## B. Campus Facilities

The college's goal is to provide a campus environment that is as safe and secure as possible. Generally, campus buildings and facilities are not only accessible to members of the campus community but also to the public during normal business hours of 8 a.m. to 5 p.m. During nonbusiness hours, 5 p.m. to 8 a.m., classrooms and office buildings not in use will remain locked. The college details additional access control and building operations under procedures for Security and Access to Campus facilities. *Note: The college operates various locations after normal business hours for the purposes of the college mission; executive directors and regional operations coordinators have discretion to operate outside of normal business hours.*

## C. Security and Access to Campus Facilities Procedure Policy Statement

Empire State College establishes procedures to ensure the safety of its students and employees.

All procedures follow these basic principles.

- *Normal business hours:* 8 a.m. to 5 p.m., Monday through Friday. Main entrances to facilities will be open and auxiliary entrances shall remain secured unless otherwise accommodated for. Facilities that host after-hour events or provide student instructional services may opt to have entrance times vary. The office manager and executive director of the location are responsible for variances in times. Additionally, at the discretion of the executive director and regional operations coordinator, hours of operation, may vary.
- *Holidays and other college closings:* All facilities will be closed and secured during state-recognized holidays. Alarm systems will be armed for 24 hours during these dates. Only college personnel with authorization privileges shall be permitted access to the building.
- *Special considerations:* Empire State College hosts various functions and during these times facilities operate on limited staffing. When a facility remains open the receptionist area of the main entrance will be staffed when possible. In buildings with card access, personnel will utilize this option for access to the facilities. Example – during an event such as the All College Conference in Saratoga Springs, the shipping and receiving area will be the primary point of delivery for all college deliveries during times of reduced staffing.

## D. Other General Information

### Visitors and Vendors

All visitors are required to utilize main entrances to facilities. They are then required to sign in at the receptionist desk and obtain a visitor/vendor pass for the day. The receptionist will then contact the individual being sought to notify them of the arrival of their visitor(s).

Employees who organize meetings and events after normal working hours are responsible for the facility while the meeting is in session and for ensuring that the building is secured when they leave. The executive director and regional operations coordinator and/or office manager of remote locations will oversee access and grant privileges. Please also refer to the Building Use Policy. The employee-identification card should be visibly displayed at all times while in college-controlled facilities or while at functions organized by Empire State College.

### Access Control and Security System

The purpose of the Access Control and Security System is:

- To improve the security of facilities with an effective policy;
- To comply with collegewide crime prevention and control objectives;
- To enable Empire State College to safeguard the work facilities;
- To simplify locking policies;
- To eliminate key duplication;
- To eliminate unauthorized access;
- To eliminate the necessity of emergency re-keying and re-coring;
- To satisfy security concerns of students, faculty and staff.

### SUNY Empire State College Student ID Number

At SUNY Empire State College, your social security number will not be used as your student identifier. You will be assigned a registration number which will be used to identify your records at the college.

## Physical Maintenance of Facilities

The overall maintenance of locations in Saratoga Springs is conducted through the Office of Administration and Facilities. Deficiencies found at Saratoga Springs locations are to be reported to Facilities at 518-587-2100, ext. 2925. Periodic safety inspections are conducted by the Office of Public Safety in conjunction with Facilities. Overall hazards are identified and corrected. Physical security, lighting and general safety items are identified and addressed in a timely manner.

Physical deficiencies or hazards found or identified at other Empire State College locations must be reported directly to the executive director or regional operations coordinator. The deficiencies are corrected by the individual maintenance companies or property owners of that respective site. However, any emerging hazard or deficiency that is of a critical nature also should be reported to the Office of Public Safety in Saratoga Springs at 518-587-2100, ext. 2800.

## X. SECURITY PROGRAMS

### A. Crime Prevention Programs

The college provides specialized trainings and crime prevention programs primarily for faculty and staff on an ongoing basis. No formal crime prevention programs for students exists at this time, however, security prevention links are listed on the website ([www.esc.edu](http://www.esc.edu)).

Empire State College, is a nonresidential college campus. Students are mature adults who live and work in their own communities; many of these communities publicize safety measures and crime prevention information. The Office of Public Safety website ([www.esc.edu/safety-security](http://www.esc.edu/safety-security)) has direct links to local police agencies across New York state, some of these agencies may list information on personal safety and security initiatives.

All employees, are advised of building security procedures, personal safety awareness and workplace/domestic violence programs when they begin employment with the college during “new employee orientation” sessions.

Annual notification regarding specific policies and procedures can be found within this document. Specific policy information regarding “Workplace Violence and Domestic Violence” may be located at [www.esc.edu/safety-security](http://www.esc.edu/safety-security).

### B. Off-campus Criminal Activity

Empire State College is a nonresidential college with no dorms or off-site housing. Off-site groups or associations in a living environment associated with the college do not exist. The Office of Public Safety works frequently and collaboratively with local law enforcement to identify crimes or incidents that occur on or near college facilities. All events conducted in conjunction with Empire State College, that take place off premises, are considered college events and must follow procedures and codes of conduct in adherence with college policy.

## XI. CAMPUS SEX CRIMES PREVENTION ACT OF 2000

The act sets requirements for sexual offender registration and community notification. The Campus Sex Crimes Prevention Act of 2000 provides for the tracking of convicted sex offenders enrolled at, or employed by, institutions of higher education. It requires sex offenders, already required to register in a state, to provide notice of each institution of higher education in that state in which that person is employed, carries on a vocation or is a student. The act amends the Family Educational Rights and Privacy Act of 1974 (FERPA) to clarify that nothing in the act can prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.

Information is listed at New York Division of Criminal Justice Services’ Sex Offender Registry or at [www.criminaljustice.ny.gov/](http://www.criminaljustice.ny.gov/). You also may contact the NYS DCJS Sex Offender Registry at 518-457-5837 or 800-262-3257.

## XII. SEXUAL OFFENDER REGISTRY

The Sex Offender Registration Act requires the Division of Criminal Justice Services (DCJS) to maintain a Sex Offender Registry. The registry contains information on classified sex offenders according to their risk of re-offending: low risk (level 1), moderate risk (level 2) and high risk (level 3). The act requires that the division also maintain a subdirectory of level 3 sex offenders. The DCJS Sex Offender Registry site may be found on the Web ([www.criminaljustice.ny.gov/](http://www.criminaljustice.ny.gov/)) and contains their subdirectory of level 3 sex offenders as well as other information regarding the New York State Sex Offender Registry (referred to as “the registry”).

Sex offenders registered in New York are now required to notify the registry of any institution of higher education at which he or she is, or expects to be, whether for compensation or not, enrolled, attending or employed, and whether such sex offender resides or expects to reside in a facility operated by the institution. Changes in status at the institution of higher education also must be reported to the registry no later than 10 days after such change.

Empire State College will maintain a website link to the New York State Sex Offender Registry and local law enforcement that maintain listings of registered sex offenders.

Correction Law §168-b requires that Division of Criminal Justice Services (DCJS) include this information regarding an institution of higher education on its registry.

### **XIII. SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING PREVENTION AND RESPONSE POLICIES**

Empire State College is committed to maintaining a safe environment that is supportive of its primary educational mission and free from all exploitation and intimidation. The college will not tolerate sexual harassment, sexual assault or any other form of nonconsensual sexual activity to include dating violence, domestic violence and/or stalking.

It is essential that students who are sexually assaulted receive support and medical treatment as soon as possible. This document outlines the policies and procedures that will allow members of the college community to be effective at referring victims of assault to medical, psychological and legal resources. The college's Student Code of Conduct provides additional information for students.

This policy reflects SUNY's Policies on Sexual Violence Prevention and Response and is in compliance with NYS law, chapter 75 of the laws of 2015.

#### **Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases**

The health and safety of every student at the State University of New York and its state-operated and community colleges is of utmost importance. Empire State College recognizes that students who have been drinking and/or using drugs, whether voluntarily or involuntarily, at the time that violence, including, but not limited to domestic violence, dating violence, stalking or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Empire State College strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to college officials. A bystander or reporting individual acting in good faith, who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Empire State College officials or law enforcement, will not be subject to the college's code of conduct for violations of alcohol and/or drug use policies at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

#### **Campus Climate Assessment Policy**

Student Climate assessments will be conducted every two years to provide college administrators the opportunity to better understand student concerns and to make informed decisions about providing a safe educational environment. (Refer to SUNY Sexual Violence Prevention and Response Policies at <http://system.suny.edu/sexual-violence-prevention-workgroup/policies>)

#### **Students' Bill of Rights**

The State University of New York and Empire State College are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence and/or stalking to ensure that they can continue to participate in collegewide and campus programs, activities and employment. All victims/survivors of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

All students have the right to:

- Make a report to local law enforcement and/or state police;
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
- Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the institution courteous, fair counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- Be free from retaliation by the institution, the accused, and/or the respondent, and/or their family, friends and acquaintances within the jurisdiction of the institution;

- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the college.

## Sexual Violence Response Policy

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below.

### 1. Reporting

- To disclose an incident confidentially to the college's student counseling service (or EAP for employees): The college contracts with a private, third-party counseling service, Talk One-2-One. This service is a free 24 hour/7 days a week confidential service, which provides licensed counselors for phone or face-to-face counseling. Contact Talk One-2-One at, [www.studenttalkone2one.com](http://www.studenttalkone2one.com); or call, 800-756-3124.
- To disclose the incident and obtain confidential services from New York State, contact New York City or county hotlines at [www.opdv.ny.gov/help/dvhotlines.html](http://www.opdv.ny.gov/help/dvhotlines.html). Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages at [www.opdv.ny.gov/help/index.html](http://www.opdv.ny.gov/help/index.html) or 800-942-6906. Assistance is also available through the following organizations.
  - o SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints>
  - o Legal Momentum: [www.legalmomentum.org](http://www.legalmomentum.org)
  - o NYSCASA: <http://nyscasa.org/responding>
  - o NYSCADV: [www.nyscadv.org](http://www.nyscadv.org)
  - o Pandora's Project: [www.pandys.org/lgbtsurvivors.html](http://www.pandys.org/lgbtsurvivors.html)
  - o GLBTQ Domestic Violence Project: [www.glbtqdv.org](http://www.glbtqdv.org)
  - o RAINN: [www.rainn.org/get-help](http://www.rainn.org/get-help)
  - o Safe Horizons: [www.safehorizon.org](http://www.safehorizon.org)  
(Note: These hotlines are for crisis intervention, resources and referrals, and are not reporting mechanisms; disclosure during a call to a hotline does not provide information to the campus. Reporting individuals are encouraged to additionally contact a confidential campus or private resource, so that the college can take appropriate action.)
- To disclose the incident to a college official, who can offer privacy and provide information about remedies, accommodations, evidence preservation and how to obtain resources. Those officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the college from retaliation and to receive assistance and resources from the college. Note, college officials will disclose that they are private and not confidential resources and may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to Title IX coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures and that questions about the penal law or criminal process should be directed to law enforcement or district attorney.
  - o Office of Public Safety, 518-587-2100, ext. 2800, 2 Union Ave., Saratoga Springs, NY 12866-4390;
  - o Title IX Coordinator, Elliott Dawes, email [Elliott.Dawes@esc.edu](mailto:Elliott.Dawes@esc.edu) or call 518-587-2100, ext. 1293;
  - o Local law enforcement office, listed at [https://en.wikipedia.org/wiki/List\\_of\\_United\\_States\\_state\\_and\\_local\\_law\\_enforcement\\_agencies](https://en.wikipedia.org/wiki/List_of_United_States_state_and_local_law_enforcement_agencies)
  - o State police 24-hour hotline to report sexual assault on a New York college campus, 844-845-7269
- To receive assistance from the college Title IX coordinator in initiating legal proceedings in family court or civil court, email [Elliott.Dawes@esc.edu](mailto:Elliott.Dawes@esc.edu) or call 518-587-2100, ext. 1293.
- To file a report of sexual assault, domestic violence, dating violence and/or stalking, and/or talk to the Title IX coordinator for information and assistance. Reports will be investigated in accordance with college policy and the reporting individual's identity shall remain private at all times, if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his/her identity private, he or she may call the

Title IX coordinator anonymously to discuss the situation and available options at Elliott Dawes, Title IX Coordinator, 325 Hudson Street, Room 513, New York, NY 10013-1005; 518-587-2100, ext. 1293; Elliott.Dawes@esc.edu.

- When the accused is an employee, a reporting individual also may report the incident to the Office of Human Resources, or may request that one of the above-referenced private employees assist in reporting to the Office of Human Resources [2 Union Ave., Saratoga Springs, NY 12866-4390; 518-587-2100, ext. 2240]; all incidents will be shared with the Title IX coordinator. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements.
- When the accused is an employee, affiliated entity or vendor to the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona-non-grata letter, subject to legal requirements and college policy.
- The reporting individual may withdraw a complaint or involvement from the college process at any time.

## 2. Resources

- To obtain effective intervention services.
  - Counseling Services: Talk One-2-One, at [www.studenttalkone2one.com](http://www.studenttalkone2one.com) or 800-756-3124. This is a free and confidential third-party, certified counseling service.
  - Sexual contact can transmit sexually transmitted infections and may result in pregnancy. Testing for STIs and emergency contraception is available at various external locations. For confidential, private, affordable same-day STI testing clinics in your local area, call 888-380-5571 (6 a.m.-10 p.m., 7 days a week).
  - Other applicable services are available from local hospitals and clinics. Please refer to resources identified in Section I-Reporting above.
  - Within 96 hours of an assault, you can get a sexual assault forensic examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information can be obtained by dialing 800-247-8035, or at <https://ovs.ny.gov/>.
  - To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

## 3. Protection and Accommodations

- When the accused is a student, he or she may request to have the college issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy, and subject to additional conduct charges. If the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. When a No Contact Order is put in place in cases involving domestic violence, dating violence, sexual assault or stalking, both the accused and the reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with college policy. Parties may submit evidence in support of their request.
- To have assistance from the Office of Public Safety or Title IX coordinator in initiating legal proceedings in family court or civil court, including, but not limited to, obtaining an Order of Protection or, if outside of New York state, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including, but not limited to, arrest, additional conduct charges and interim suspension.
- To have assistance from the Office of Public Safety when an individual violates an Order of Protection or to call on and assist local law enforcement in facilitating an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subjected to interim suspension, pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension.

- When the accused is not a member of the college community, to have assistance from the Office of Public Safety or other college officials in obtaining a persona-non-grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, employment or other applicable arrangements, in order to ensure safety, prevent retaliation and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can assist with these measures:
  - o Title IX coordinator, 325 Hudson Street, Room 513, New York, NY 10013-1005; 518-587-2100, ext. 1293; Elliott.Dawes@esc.edu
  - o Director of collegewide student affairs, 1 Union Ave., Saratoga Springs, NY 12866-4309; 518-587-2100, ext. 2463, Patricia.Myers@esc.edu

#### 4. Student Conduct Process

- To request that student-conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Empire State College undergraduate and graduate catalogs at [www.esc.edu/academic-affairs/catalogs-guides](http://www.esc.edu/academic-affairs/catalogs-guides), as well as federal and New York state law, including the due process provisions of the United States and New York state constitutions.
- Throughout conduct proceedings, the respondent and the reporting individual will have:
  - o The same opportunity to be accompanied by an advisor of their choice, who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct.
  - o The right to a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence and stalking.
  - o The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
  - o The right to receive advance written or electronic notice of the date, time and location of any meeting or hearing he or she is required or eligible to attend. Accused individuals will be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated and possible sanctions.
  - o The right to due process concurrent with a criminal justice investigation and proceeding, except for temporary delays, as requested by external municipal entities, while law enforcement gathers evidence. Temporary delays should not last more than 10 days, except when law enforcement specifically requests and justifies a longer delay.
  - o The right to offer evidence during an investigation and to review available relevant evidence in the case file, or otherwise held by the college.
  - o The right to present evidence and testimony at a hearing, where appropriate.
  - o The right to a range of options for providing testimony via alternative arrangements, including telephone/video conferencing, or testifying with a room partition.
  - o The right to exclude prior sexual history with persons other than the other party in the conduct process, or their own mental health diagnosis or treatment that may determine responsibility. Past findings of domestic violence, dating violence, stalking or sexual assault may be admissible in the disciplinary stage that determines sanction.
  - o The right to ask questions of the decision maker and, via the decision maker, indirectly request responses from other parties and any other witnesses present.
  - o The right to make an impact statement during the point of the proceeding, where the decision maker is deliberating on appropriate sanctions.
  - o The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions and the rationale for the decision and sanctions.
  - o The right to written or electronic notice about the sanction(s) that may be imposed on the accused, based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
  - o Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.



- o The right to access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
- Office of Collegewide Student Affairs, 1 Union Ave., Saratoga Springs, NY 12866-4309; Patricia.Myers@esc.edu, 518-587-2100, ext. 2463
  - o The right to choose whether to disclose or discuss the outcome of a conduct hearing.
  - o The right to have all information obtained during the course of the conduct or judicial process be protected from public release, until the appeals panel makes a final determination, unless otherwise required by law.

## Options for Confidentially Disclosing Sexual Violence

The State University of New York and Empire State College want students to get the information and support they need, regardless of whether they move forward with a report of sexual violence to college officials, or to police. Students are encouraged to talk with someone about something they have observed or experienced, even if they are unsure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

### Privileged and Confidential Resources

Individuals who are confidential resources will not report crimes to law enforcement or college officials without the victim's permission, except for extreme circumstances, such as a health and/or safety emergency. At Empire State College, a confidential service includes an off-campus professional counseling service: Talk One-2-One, at [www.studenttalkone2one.com](http://www.studenttalkone2one.com) or 800-756-3124. This is a free, confidential, third-party, certified confidential counseling service.

Off-campus options to disclose sexual violence confidentially include\*:

- Off-campus counselors and advocates\*\*

Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.

- o New York State Coalition against Sexual Assault at <http://nyscasa.org>
- o Sexual Assault Nurse Examiner (SANE) at local hospitals and programs
- Off-campus healthcare providers
- Medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found <https://ovs.ny.gov/> or call 800-247-8035.

\* Note: These outside options do not provide any information to the campus.

\*\* Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

### Privacy versus Confidentiality

Even Empire State College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a nonconfidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Empire State College will limit the disclosure as much as possible, even if the Title IX coordinator determines that the request for confidentiality cannot be honored.

### Requesting Confidentiality: How Empire State College Will Weigh the Request and Respond

If an incident is disclosed to an Empire State College employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, or do not consent to the college's request to initiate an investigation, the Title IX coordinator must weigh the request against their obligation to provide a safe, nondiscriminatory environment for all members of our community, including the reporting individual.

The college will assist in making academic, employment and other reasonable and available accommodations, regardless of the reporting individuals reporting choices. While reporting individuals may request accommodations through various college offices, the following office serves as a primary point of contact to assist with these measures: Elliott Dawes, Title IX Coordinator, 325 Hudson Street, Room 513, New York, NY 10013-1005; 518-587-2100, ext. 1293; [Elliott.Dawes@esc.edu](mailto:Elliott.Dawes@esc.edu).

The college may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the reporting individual or the situation they disclosed.

The college may seek consent from reporting individual prior to conducting an investigation. The reporting individual may decline to consent to an investigation, and that determination will be honored unless the college's failure to act does not adequately mitigate the risk of harm to you or other members of the college community. Honoring such request may limit the college's ability to meaningfully investigate and pursue action against an accused individual. If the college determines that an investigation is required, the reporting individual will be notified and immediate action will be taken, as necessary, to provide protection and assistance.

When a reporting individual discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, Empire State College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking
- The increased risk that the accused will commit additional acts of violence
- Whether the accused used a weapon or force
- Whether the reporting individual is a minor
- Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location, or by a particular group.

If the college determines that it must move forward with an investigation, the reporting individual will be notified and the college will take immediate action, as necessary, to protect and assist him or her.

### **Public Awareness/Advocacy Events**

If an individual discloses a situation through a public awareness event, such as "Take Back the Night," candlelight vigils, protests through a student organization or other event or forum, or other public event, the college is not obligated to begin an investigation. Empire State College may use the information provided to inform the need for additional education and prevention efforts.

### **Anonymous Disclosure**

- New York State Hotline for Sexual Assault and Domestic Violence: 800-942-6906

### **Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included anonymously in the college Clery Act Annual Security Report that neither identifies the specifics of the crime or the identity of the reporting individual. Contact information:

- Director of public safety and emergency management, 518-580-2900
- Title IX coordinator, 518-587-2100, ext. 1293

Empire State College is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parent's prior year federal income tax return. Generally, SUNY Empire will not share information about a report of sexual violence with parents without the permission of the reporting individual.

### **Definitions**

- *Accused*: a person accused of a violation who has not yet entered the college's judicial or conduct process.
- *Affirmative consent*: refer to definition on page 4 of this document.
- *Bystander*: a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the college.
- *Bystander intervention*: involves developing the awareness, skills, and courage needed to intervene in a situation when another individual needs help. Bystander intervention allows individuals to send powerful messages about what is acceptable and expected behavior in our community.

- *Code of Conduct*: the written policies adopted by the college governing student behavior, rights and responsibilities while at the college.
- *Confidentiality*: may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to college officials, in a manner consistent with state and federal law, including, but not limited to, 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of individuals who may offer confidentiality. College faculty and staff are mandated to report known incidences of sexual assault or other crimes to appropriate college officials, but are considered private sources. See definition of “Privacy” below.
- *Preponderance of the evidence*: the standard of proof in sexual harassment and sexual assault cases, which asks whether it is “more likely than not” that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, the accused should be found responsible.
- *Privacy*: may be offered by an individual when he or she is unable to offer confidentiality under the law, but shall not disclose information about a crime or incident learned from a reporting individual or bystander more than is necessary to comply with this and other applicable laws, including informing appropriate college officials.
- *Responsible employee*: an employee with the authority to redress sexual violence, who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate college official, or whom a student could reasonably believe has this authority or duty. If a responsible employee is aware of sexual violence, then the college is considered on notice of that sexual violence.
- *Reporting individual*: victim, survivor, complainant, claimant, witness with victim status and any other term used by the college to reference an individual who brings forth a report of a violation.
- *Retaliation*: adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including, but not limited to, violence, threats of violence, property destruction, adverse educational or employment consequences and bullying.
- *Respondent*: a person accused of a violation who has entered the college’s judicial or conduct process.
- *Sex discrimination*: includes all forms of sexual harassment, sexual assault, and other sexual violence by employees, students, or third parties against employees, students or third parties. Students, employees and third parties are prohibited from harassing others, whether or not the harassment occurs on a SUNY campus or during work hours. All acts of sex discrimination, including sexual harassment and sexual violence, are prohibited by Title IX.
- *Sexual activity*: shall have the same meaning as “sexual act” and/or “sexual contact,” per 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).
- *Sexual assault*: physical sexual act(s) committed against another person without consent. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape” (including “date rape” and “acquaintance rape”), fondling, statutory rape and incest. For statutory rape, the age of consent in New York state is 17 years old.
- *Sexual harassment*: unwelcome, gender-based verbal, nonverbal, or physical conduct that is sexual in nature and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from the college’s educational program and/or activities, and based on power differentials, the creation of a hostile environment, or retaliation.
- *Sexual violence*: physical sexual acts perpetrated against a person’s will or perpetrated where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including, dating violence, domestic violence and sexual assault (including rape).
- *Stalking*: intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety, or the safety of others, or causes that person to suffer substantial emotional damage. Examples include repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such person(s), and that serve no legitimate purpose, and repeatedly communicating, by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy or alarm him or her.
- *Title IX coordinator*: Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. Sec., 1681, et seq., states that all students have equal educational opportunity free from sex discrimination, including sexual harassment and sexual assault. The Title IX coordinator is responsible for the college’s compliance with this regulation including, but not limited to, systematically monitoring and evaluating policy and procedures that effectively and efficiently respond to complaints of sex discrimination. Individuals with questions or concerns related to Title IX may contact the Title IX coordinator, Elliott Dawes, email Elliott.Dawes@esc.edu or call 518-587-2100, ext. 1293. The Title IX coordinator is either the official coordinator and/or his or her designee or designees.

Elliott Dawes  
Chief Diversity Officer for Institutional Equity and Inclusion  
and Title IX Coordinator  
Office of the President  
SUNY Empire State College  
325 Hudson Street, Room 513  
New York, NY 10013-1005  
518-587-2100, ext. 1293  
Elliott.Dawes@esc.edu

Mark Jankowski  
Director of Public Safety and Emergency Management/Deputy Title IX Coordinator  
SUNY Empire State College  
2 Union Ave.  
Saratoga Springs, NY 12866-4390  
518-587-2100, ext. 2800

Director of Collegewide Services  
Office of College Student Services  
SUNY Empire State College  
1 Union Ave.  
Saratoga Springs, NY 12866-4309  
518-587-2100, ext. 2463  
CollegewideStudentServices@esc.edu

Mary Ellen Keeney  
Assistant Vice President for Human Resources and Labor Relations/Affirmative Action Officer  
Office of Human Resources  
SUNY Empire State College  
2 Union Ave.  
Saratoga Springs, NY 12866-4390  
518-587-2100, ext. 2240

#### **XIV. BIAS-RELATED CRIME AND HATE CRIME**

Empire State College takes bias crimes seriously. The college provides the following information to students and employees to assist in the prevention of and response to bias crimes. This statement meets the requirements of the New York State Hate Crimes Act of 2000 (Penal Law Article 485). Copies of the New York law are available on the college's website ([www.esc.edu](http://www.esc.edu)).

##### **A. Bias Crimes, Definitions**

Hate crimes, also called bias crimes or bias-related crimes, are criminal activities motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as race religion, ethnicity, gender identity, sexual orientation, national origin or disability.

Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender.

If you are the victim of, or witness to, a hate/bias crime at a college location or event, report it to the appropriate local police agency. Since college services are delivered through locations across the state and the college does not have its own police force, we rely on local law enforcement to respond to reported crimes at our locations.

##### **B. Bias-Related Incidents or Crimes**

Bias incidents directed at a member of a group within Empire State College that does not rise to the level of a crime include bigotry, harassment or intimidation based on national origin, ethnicity, race, age, religion, gender identity, sexual orientation, disability, veteran status, color, creed or marital status. Such incidents may be addressed through the State University's Discrimination Complaint Procedure or the college's Student Conduct Policy and Procedures. Bias incidents can be reported to the following individual.

Elliott Dawes  
Chief Diversity Officer for Institutional Equity and Inclusion  
and Title IX Coordinator  
Office of the President  
SUNY Empire State College  
325 Hudson Street, Room 513  
New York, NY 10013-1005  
518-587-2100, ext. 1293  
Elliott.Dawes@esc.edu

Victims of bias crimes or incidents may seek counseling services from their own health care providers. The college does not offer on-site counseling services.

## **XV. DRUG AND ALCOHOL PREVENTION PROGRAM**

### **A. Standards of Conduct**

Empire State College policy prohibits the unlawful possession, use or distribution of illicit drugs and the abuse of alcohol by students and employees on college property or as part of the college's activities. The college has a wellness website which informs students about addiction and where to obtain assistance. In addition, sessions are offered at the student wellness retreat covering drug and alcohol prevention and recovery.

Employees may seek additional information on the Office of Human Resources website ([www.esc.edu/HR](http://www.esc.edu/HR)).

### **B. Health Risks**

There are significant psychological and physiological health risks associated with the use of illicit drugs and alcohol. Physical addiction, loss of control and withdrawal syndrome as well as serious damage to vital organs of the body can result from drug and alcohol abuse. Further information is available from regional locations or the Office of Academic Affairs.

### **C. Federal, State and Local Legal Sanctions**

Conviction for possession and sale of controlled substances carries a number and variety of penalties under New York State Law. These range from fines to prison terms of 15 years to life, depending upon the nature of the substance, the criminal act and the character of the crime. Federal Trafficking Law convictions also carry a variety of penalties which range from five to 30 years in prison and substantial fines. These sanctions are described in materials which are available at the regional locations or the Office of Academic Affairs. NYS Penal Law. <http://ypdcrime.com/penal.law/>

### **D. Disciplinary Sanctions – Students**

A student accused of possession/use of or distribution of alcohol or drugs will be subject to the college's Student Conduct Policy and Procedures in the college catalog. Sanctions for those found responsible may include written warning, suspension or expulsion.

## **XVI. ALCOHOL POLICY**

### **A. Alcohol and Drug Use in the Workplace**

In compliance with the Federal Drug Free Schools and Communities Act of 1988 and the New York State Policy on Alcohol and Controlled Substances in the Workplace, the Empire State College policy prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance and the abuse of alcohol by students and employees on college property or as part of the college's activities.

New York state prohibits on-the-job use of, or impairment from, alcohol and controlled substances.

### **B. Campus Drug Policy**

Empire State College is committed to promoting a drug-free campus environment.

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), all students and employees are advised that individuals who violate federal, state or local laws and campus policies are subject to college disciplinary action and criminal prosecution. Local police have full authority to enforce all federal and state drug laws.

## New York State Law

Articles 220 and 221 of the New York State Penal Law set criminal penalties for possession or sale of drugs considered harmful or subject to abuse. The seriousness of the offense and penalty imposed upon conviction depend upon the individual drug and amount held or sold. The Student Code of conduct may also apply.

## XVII. FIRE SAFETY, FIRE RELATED INFORMATION

Empire State College fully recognizes its responsibility to provide both awareness and safety training for faculty, staff and students and undertakes an ambitious program each year. Fire safety and emergency training for faculty and staff begins with discussions about fire prevention and safety during orientation programs. Annual fire inspections are conducted by the Office of Fire Prevention and Control.

Smoking is prohibited inside all college facilities.

### A. Fires, Emergency Building Evacuations, Evacuation for People With Physical Disabilities

In the event of fire, a smoke condition or odor of gas:

- Notify fire departments by accessing an outside line if applicable and dialing 911 from any phone or cell phone
- Activate the nearest alarm pull station as you leave the building
- Follow evacuation instructions
- Quickly and calmly evacuate the building from the nearest exit. Do *not* use the elevators.
- Do *not* re-enter a building that is in alarm
- Proceed to the previously designated area of refuge and remain there.

Emergency evacuation plans are identified for each college location and posted.

- It is best to have arrangements preplanned for evacuation assistance. Arrangements can be made to reasonably assure that assistance is provided to anyone who requires it. Contact the Office of Public Safety at 518-587-2100, ext. 2800 for preplan arrangements or questions.
- **IF you are unable to evacuate, call 911.**
- Remember to never use the elevators.

## XVIII. MEDICAL EMERGENCIES

### Access an outside line if applicable and Dial 911

#### Medical Incidents

Emergencies can happen any place and at any moment. When an emergency arises at Empire State College, it is important to know who to notify to expedite an emergency service response to the incident. Everyone at Empire State College remains a vital link in the network of college and community resources prepared to respond to medical emergencies.

## XIX. GENERAL SAFETY

### A. Faculty and Staff Members' Roles

Everyone at Empire State College has a basic responsibility for his or her own personal safety; faculty and staff have an increased level of responsibility.

### B. Personal Safety

- *Stairwells and out-of-the way corridors:* utilize common stairwells and corridors that are traveled most frequently by others.
- *Elevators:* if in an elevator with someone who creates an uneasy feeling, get off as soon as possible.
- *Restrooms:* be extra cautious when using restrooms that are isolated or poorly lit.
- *After hours:* don't walk alone late at night. Create a buddy system for walking to parking lots or public transportation.
- *Parking lots or garages:* always lock the car and roll the windows up all the way. Park in a well-lit area. Carry keys in hand while approaching the vehicle.

## C. Prevention of Crime in the Office

Use your keys, access card/codes properly.

- Never share them with anyone.
- Don't place personal identification on your key rings.
- Keep your personal keys and your office keys on separate rings.
- Report lost key rings and access card immediately.
- Keep purses or wallets on your person or lock them in a drawer or closet.
- Keep track of serial numbers of any personal items and mark them with your name or initial (i.e., radio).
- Keep coat racks away from entrances/exits to minimize temptation.
- Don't leave your office unattended. Lock it.
- Have your phone forwarded to another person's office or to voice mail.
- Report any lighting deficiencies, broken windows or broken door locks to the facilities maintenance.
- Don't allow repairs to security or communication equipment without verifying a written order from the appropriate supervising office.

## XX. DOMESTIC VIOLENCE – WORKPLACE VIOLENCE INITIATIVE

Executive Order 19, issued on Oct. 22, 2007, requires all state agencies to adopt a Domestic Violence and the Workplace Policy by Aug. 1, 2008. The Office for the Prevention of Domestic Violence (OPDV) has been charged with the responsibility of developing a model policy and sample implementation procedures by Feb. 1, 2008. The workplace violence initiative program and training outline Empire State College adheres to is located on the Office of Public Safety website ([www.esc.edu/safety-security](http://www.esc.edu/safety-security)). These very important policies are post on the Safety and Security website at [www.esc.edu/safety-security](http://www.esc.edu/safety-security). Refer to paragraph **XXIV. SAFETY PROGRAMS AND SERVICES** regarding safety programs and services for domestic violence and workplace violence.

## XXI. WEAPONS POSSESSION

College policy prohibits, unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials.

### A. Safety Guidelines for Armed Subjects, Active Shooter Situations.

An active shooter is a person who appears to be actively engaged in killing or attempting to kill people in a populated area. In most cases active shooters use firearm(s) and there is no pattern or method to their selection of victims. These situations are dynamic and evolve rapidly, demanding immediate deployment of law enforcement resources to stop the shooting and mitigate harm to innocent victims. This section provides guidance to persons who may be caught in an active shooter situation, and describes what to expect from responding police officers.

#### What should you do

In general, how you respond to an active shooter will be dictated by the specific circumstances of the encounter, bearing in mind there could be more than one shooter involved in the same situation. If you find yourself involved in an active shooter situation, try to remain calm and use these guidelines to help you plan a strategy for survival.

- **If an active shooter is outside your building**, proceed to a room that can be locked, close and lock all the windows and doors, and turn off all the lights; if possible, get everyone down on the floor and ensure that no one is visible from outside the room. One person in the room should call 911, advise the dispatcher of what is taking place, and inform him/her of your location; remain in place until the police or a campus administrator known to you, gives the "all clear." Unfamiliar voices may be the shooter attempting to lure victims from their safe space; do not respond to any voice commands until you can verify with certainty that they are being issued by a police officer.
- **If an active shooter is in the same building** you are, determine if the room you are in can be locked. If so, follow the same procedure described in the previous paragraph. If your room can't be locked, determine if there is a nearby location that can be reached safely and secured, or if you can safely exit the building. If you decide to move from your current location, be sure to follow the instructions outlined below.
- **If an active shooter enters your office or classroom**, try to remain calm, dial 911, if possible, and alert police to the shooter's location; if you can't speak, leave the line open so the dispatcher can listen to what's taking place. Normally the location of a 911 call can be determined without speaking. If there is absolutely no opportunity to escape or hide, it might be possible to negotiate with the shooter; attempting to overpower

the shooter with force should be considered a last resort, after all other options have been exhausted. If the shooter leaves the area, proceed immediately to a safer place and do not touch anything that was in the vicinity of the shooter.

- **No matter what the circumstances**, if you decide to flee during an active shooting situation, make sure you have an escape route and plan in mind. Do not carry anything while fleeing, move quickly, keep your hands visible, and follow the instructions of any police officers you may encounter. Do not attempt to remove injured people; instead, leave wounded victims where they are and notify authorities of their location as soon as possible. Do not try to drive off campus until advised it is safe to do so by police or campus administrators.

### What to expect from responding police officers

Police officers responding to an active shooter are trained to proceed immediately to the area in which shots were last heard; their purpose is to stop the shooting as quickly as possible. The first responding officers may be dressed in regular patrol uniforms, or they may be wearing external bulletproof vests and helmets, as well as other tactical equipment. The officers may be armed with rifles, shotguns or handguns, and might be using Tasers, pepper spray or tear gas to control the situation. Regardless of how they appear, remain calm, do as the officers tell you, and do not be afraid of them. Put down any bags or packages you may be carrying and keep your hands visible at all times. If you know where the shooter is, tell the officers. The first officers to arrive will not stop to aid injured people; rescue teams composed of other officers and emergency medical personnel will follow the first officers into secured areas to treat and remove injured persons. Keep in mind that even once you have escaped to a safe location, the entire area is still a crime scene; police will usually not let anyone leave until the situation is fully under control and all witnesses have been identified and questioned. Until you are released, remain at whatever assembly point authorities designate.

## XXII. FIREARMS POLICY

Empire State College (in accordance with the SUNY policies and regulations<sup>\*</sup>) prohibits any person from possessing firearms at any college facility or college sponsored event without the written authorization of the college's chief administrative officer. This policy specifically applies to law enforcement officials who may otherwise be authorized to carry firearms while off duty.

This policy prohibiting the possession of firearms does not apply to law enforcement officials in *pursuit of official duty* when authorized by federal or state law. For purposes of this policy, law enforcement officers who are required to carry firearms while taking on-duty breaks shall be considered to be in "pursuit of official duty" when on such breaks.

- \* The following SUNY policies and regulations apply:
- 8 NYCRR Part 590 – SUNY's regulations relating to firearms;
  - SUNY's Policy for Firearms on State Operated Campuses;
  - 8 NYCRR Part 535 SUNY's regulations for the maintenance of public order.

## XXIII. STUDENT CONDUCT POLICY

### A. Policy Statement

The Student Conduct Policy sets behavioral standards for Empire State College students and defines the relationship between the college and its students. It affirms values essential to promoting individual intellectual and personal development and for creating an effective learning community. Empire State College expects students to conduct themselves in a responsible manner that is respectful of the rights, well-being and property of all members of the college community and that supports the college's educational mission. This policy complies with section 6450 of the Educational Law and section 535 of the Rules of the Board of Trustees of the State University of New York.

Students are expected to:

- Treat students, faculty and staff of the college with civility and respect;
- Represent themselves and any documentation that they may present to the college in an honest manner;
- Respect college property and the activities conducted at college facilities or college-sponsored events;
- Uphold college policies, SUNY policies and all applicable laws.

Empire State College students should expect the same degree of civility and respect from other students, faculty and staff.

### B. Scope

A student is a person who is admitted or enrolled at Empire State College. The college has an interest in student conduct which occurs during a student's matriculation or enrollment at the college, including any breaks in enrollment permitted by college policy. Students are responsible for their own behavior and the behavior of their guests.



The college does not normally pursue alleged conduct violations that occur away from Empire State College facilities or events, or that are not associated with the student's relationship with Empire State College. However, in situations when the safety of members of the college community may be endangered, the college may review such violations pursuant to the policy on student conduct.

### C. College Regulations

The following behaviors by a student, or any guest of a student, whether acting alone or with any other persons, violate the policy on student conduct.

1. Conduct that threatens or endangers the mental health, physical health or safety of any person or persons, or causes actual harm, including: physical harm or threat of physical harm such as physical abuse, sexual assault, stalking, rape, any form of sexual violence, domestic violence and/or dating violence or coercion, all forms of harassment including sexual harassment and intimidation, whether physical, verbal (oral or written) or nonverbal.
2. Dishonest conduct not covered by the SUNY Empire State College Academic Honesty Policy and Procedures, including forgery; alteration, fabrication or misuse of identification cards, records, grades, diplomas, college documents; or misrepresentation of any kind to a college office or official.
3. Disorderly conduct that interferes with the rights of others.
4. Intentional or reckless disruption or interference with the activities of the college or its members.
5. Theft of personal or college property or services, or illegal possession or use of stolen property.
6. Vandalism or intentional or reckless damage to personal or college property.
7. Unauthorized entry, use, or occupation of college facilities or the unauthorized use or possession of college equipment.
8. Illegal purchase, use, possession or distribution of alcohol, drugs, or other controlled substances.
9. Failure/refusal to comply with the directions of college officials who are performing the duties of their office in relation to the maintenance of safety or security.
10. Unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials.
11. Interference with or misuse of fire alarms, elevators, or other safety and security equipment or programs, including but not limited to initiating, or causing to be initiated, any false report, warning or threat of fire, explosion or other emergency.
12. Violation of a condition or sanction imposed (or agreed upon) due to a violation of the policy on student conduct.
13. Violation of any federal, state or local law that poses a threat to the health, safety or well-being of the college or its individual members.

Additional information can be found at [www.esc.edu/safety-security](http://www.esc.edu/safety-security).

### D. Rights of the Parties

Students are entitled to equal care and fairness in the application of the policy on student conduct. A student accused of a breach of student conduct and others in the college community have equally important interests. Thus, the college takes into account the interests of all parties in order to reach a fair resolution.

- Each party has the right to be informed of his or her rights through receipt of a copy of this policy.
- Each party has the right to receive relevant information and documentation, including information that is favorable to the student accused of a violation or that may indicate that he or she may not be responsible.
- Each party has the right to a meaningful opportunity to be heard and to respond to the information and documentation presented.

### Consideration of Information

In both formal and informal investigations of complaints and concerns, the college may review and consider relevant information about prior complaints and their outcomes and informal steps toward changing the behavior. The college will not include information about conduct complaints for which a student was found not responsible.

### Interim Suspension

1. Interim suspension is used only in the following circumstances:
  - o To ensure the safety and well-being of members of the community or preservation of college property
  - o If the student poses a definite threat of disruption of or interference with the normal operations of the college.

2. The dean or vice provost for academics' designee may place a student on interim suspension upon making a determination that such an action is necessary to maintain safety and order. The dean or vice provost for academics' designee normally consults with the vice provost for academics and/or judicial officer before taking such action. The interim suspension remains in effect until responsibility and sanctions have been determined and any appeals have been resolved.
3. Upon placing the student on interim suspension, the dean or vice provost for academics' designee immediately forwards a formal complaint to the judicial officer. Consequently, the dean or vice provost for academics' designee is a party to the complaint.
4. The judicial officer assembles a student conduct committee as outlined and conducts the hearing within 15 calendar days of the notice to the student of the interim suspension.
5. A student placed on interim suspension may request reconsideration in writing to the dean or vice provost for academics' designee. The student must provide evidence that s/he is not a risk to safety and order. The dean or provost's designee reviews the request and considers the information the student provides. If the dean or vice provost for academics' designee reconsiders and sustains the suspension, the student may appeal to the vice provost for academics.

## Informal Resolution

Location, program and functional staff (financial aid, student accounts, business services, admissions, etc.) are expected to resolve issues around student behavior informally through discussion and advisement before moving to formal complaints. Any resolution reached through this process is binding. Staff summarize in writing both informal resolutions reached with student and attempts to resolve issues informally and send that summary to the student and any other relevant parties. In some cases, it is appropriate to move directly to a formal complaint.

## Formal Complaints

The Office of Academic Affairs is responsible for administering formal student conduct procedures. A staff member within the Office of Academic Affairs serves as the college's judicial officer.

The college uses the procedures that follow only if there is a formal allegation of a breach of student conduct as defined in this policy. The procedures support investigation of alleged misconduct and hearings are an extension of that investigation and not trials.

The college's standard for finding a student responsible for a violation of the policy on student conduct is that there is a preponderance of evidence supporting the complaint.

There are three possible formal sanctions. The sanctions of expulsion and suspension result in a loss of good standing with the college. Repeated violations may be a basis for determining that a sanction of suspension or expulsion from the college is warranted.

*Expulsion:* A student who is expelled from the college for disciplinary reasons is permanently excluded from all college activities, functions, facilities and buildings, and may not use any college resources.

*Suspension:* A student who is suspended from the college is excluded from all college activities, functions, facilities and buildings and may not use any college resources for the period of the suspension. The student is restored to good standing at the end of the suspension period.

*Written warning:* A written warning describes the breach of conduct and directs the student not to repeat the conduct in question. A written warning indicates that the student has damaged his or her relationship with the college, but does not carry a loss of good standing. A written warning issued for a breach of conduct will be reviewed when considering any future breaches of conduct.

A suspension or written warning may be accompanied by restrictions on the use of specific college resources or facilities (e.g., use of computer resources). A restriction may be temporary or permanent. Information defining such restrictions must be included in the written notice to the student.

In addition to the sanctions specified above, the college may require the student to make restitution or compensate for any loss, damage or injury.

## Procedures (for cases other than Sexual Misconduct)

### Formal Complaint

Any member of the college community may file a complaint alleging a breach of student conduct. The complainant(s) submits a signed, written complaint to the judicial officer within 30 calendar days of the occurrence of the event or discovery thereof. The complaint must describe the alleged violation and include any available documentation/information. The complaint may include information about previous behavior that demonstrates a recurrent pattern of behavior that is relevant to the current conduct violation. In the initial review, (described below) the judicial officer determines if the college will charge the accused with a violation of the conduct policy.

Given the role of the judicial officer in resolving behavioral concerns, the judicial officer is often aware of the full range of a student's behavior across the college and may be the most knowledgeable. Consequently, the judicial officer may initiate formal proceedings based on her/his

knowledge of the student's behavior. If there is a conflict of interest the judicial officer may excuse herself/himself and the provost will appoint an alternate judicial officer.

### **Initial Review**

The judicial officer first determines if there are grounds for the allegation and whether the allegation falls within the scope of the policy on student conduct.

1. If the judicial officer determines that the allegation is groundless or the alleged violation does not fall within the scope of this policy, the judicial officer so notifies the complainant in writing.
2. If the judicial officer determines the allegation falls within the scope of this policy, s/he determines whether a formal or informal process should be followed. If the judicial officer decides that a formal process is required, then the judicial officer charges the student with a violation of the student conduct policy.

### **Informal Resolution**

The judicial officer may address the concern through discussion with the student or other appropriate means and make an effort to resolve the matter informally. The formal process is followed if the judicial officer determines that the informal process is insufficient or inappropriate.

### **Formal Process**

1. If the judicial officer determines that the alleged violation does not potentially warrant a sanction of suspension or expulsion from the college, but still warrants formal action, the next step is a review conference with the student.
2. If the judicial officer determines that the alleged violation is serious enough to potentially warrant a sanction of suspension or expulsion from the college, the next step is referral to the Student Conduct Committee for a hearing. Repeated violations may be a basis for determining that a referral must be made to the Student Conduct Committee

In any case, the judicial officer notifies the student in writing within 15 calendar days of receipt of the complaint. The written notice indicates who filed the complaint, summarizes the student's alleged violation of college policy and the nature of the information and documentation presented against the student and includes a copy of the policy on student conduct. The written notice also indicates whether the next step is a discussion, a review conference or referral to the Student Conduct Committee for a hearing.

### **Review Conference**

1. The review conference includes the judicial officer and the student who has been charged with a violation and may take the form of a meeting, phone conference or video conference. The conference usually takes place within 15 calendar days of the written notice to the student.
2. In the review conference, the judicial officer reviews the allegation and the college's policy on student conduct with the student and gives the student an opportunity to respond. The judicial officer may consult with others, as she/he deems necessary.
3. The judicial officer makes a determination about the allegation and may:
  - a. Determine that the student is not responsible
  - b. Determine that the student is responsible and resolve the issue administratively by mutual consent of the parties in a way that is acceptable to the judicial officer
  - c. Redefine the alleged violation as potentially warranting a sanction of suspension or expulsion from the college, and refer the case to the Student Conduct Committee for a hearing
  - d. Determine that the student is responsible for a violation for which a written warning is appropriate. In this case, the administrator may impose the sanction of a written warning.
4. The judicial officer provides a written summary of the issue and its disposition to the student, the complainant and the student's home location or program dean, and maintains a copy for the college's records.
5. The judicial officer copies all correspondence arising from the review conference to the student's home location dean, the vice provost for academics and to relevant parties as appropriate.
6. The judicial officer is responsible for producing and maintaining an accurate record of the review conference.

### **Student Conduct Committee**

1. A Student Conduct Committee considers alleged violations of the policy on student conduct that may warrant a sanction of suspension or expulsion from the college.

2. A SCC consists of three members, at least one Empire State College faculty member, one student service professional and, if possible, one Empire State College student. If a student is not available, another faculty member will be added. The Office of Academic Affairs establishes and maintains a list of faculty and student service professionals trained to conduct hearings. One member of the group of trained faculty and professionals serves as convener.
3. The judicial officer identifies a conduct committee for a particular case and establishes a faculty or staff member of the committee as the hearing officer.
4. If a member of the SCC is a party to a complaint or has a conflict of interest, he or she excuses himself or herself. The judicial officer identifies a substitute member who is not involved in the case replaces the original member.

## Student Conduct Hearing

1. A SCC hearing takes place within 30 calendar days of the referral, not counting college no-appointment periods. The hearing may take the form of a meeting, conference call or video conference, at the discretion of the SCC.
2. The SCC is responsible for conducting a fair hearing of the facts and relevant information.
3. The hearing officer is responsible for procedural decisions, correspondence and coordinating and chairing the hearing.
4. The judicial officer serves as advisor to the hearing officer; either may designate additional staff support for the hearing.
5. Each party has the right to have an advisor at a SCC hearing, but advisors may not question witnesses, address the SCC or participate directly in the hearing.
6. Each party has the right to refuse to answer questions.
7. The hearing officer must require all witnesses to swear or affirm that the information they provide will be truthful.
8. A single, verbatim record (e.g., transcript or recording) is made of the hearing. It and any copies made for safekeeping remain the property of the college. The college provides supervised, post-hearing access to the record, but does not provide copies to the parties.
9. The SCC is responsible for obtaining and reviewing any supporting documentation it deems necessary from the student, the complainant and/or others.
10. Following the hearing, the SCC deliberates in closed session.
11. The SCC is responsible for determining whether the student violated the policy on student conduct and for determining an appropriate sanction. The SCC may:
  - a. Determine that the student is not responsible
  - b. Determine that a violation has occurred which does not warrant even a written warning sanction, and refer the case back to the judicial officer for resolution through a review conference
  - c. Determine that the student has violated the policy on student conduct and decide on a sanction of expulsion, suspension or written warning. Since alleged violations are referred to the SCC only when a sanction of suspension or expulsion from the college is potentially warranted, an SCC finding of misconduct normally results in a decision for either of those two sanctions. However, the SCC may decide upon the lesser sanction of a written warning.
12. The SCC transmits its written decision and rationale to student, the complainant, the student's home location or program dean and the judicial officer within 15 calendar days of the hearing. The SCC also transmits the verbatim record of the hearing session to the judicial officer within 15 calendar days of the hearing.

## Sanctions and Imposition of Sanctions

The judicial officer is responsible for implementing any sanction for misconduct within seven calendar days of the SCC decision. The judicial officer provides a written notice to the student, the complainant and the dean of the student's home location or program and maintains a copy for the college's records.

## Appeals

1. The student has the right to appeal a decision by the judicial officer or by the SCC to the vice provost for academics. Such appeals are not a rehearing of the complaint; rather, they provide a safeguard against errors or unfairness. The student may appeal the determination of responsibility, the sanction or both.

2. Appeals are considered on one or more of the following grounds:
  - a. Significant new information not available at the time of the hearing /decision
  - b. Information/documentation presented at the hearing /decision that was disregarded
  - c. Substantive procedural violation that may have altered the outcome of the hearing/decision
  - d. Imposition of an unreasonable sanction.
3. The student must submit any appeal in writing to the vice provost for academics within 30 calendar days of transmittal of the decision and must include an explanation or justification for the appeal.
4. The vice provost for academics notifies other parties in the case within seven calendar days of receipt of an appeal. Those parties normally provide any written response within 15 calendar days. The vice provost for academics normally provides a written decision and rationale within seven calendar days of receipt of responses to the appeal. The vice provost for academic services decision is final.
5. If the student files a timely appeal, no sanction is imposed until the vice provost for academics renders a decision, except that an interim suspension imposed to maintain safety and order remains in effect.

## Maintaining Records

The Office of Academic Affairs maintains judicial records for five years from the date of last enrollment or graduation date, whichever is later, except in cases resulting in suspension or expulsion, in which case the record is maintained indefinitely. If a student matriculates into another program at Empire State College, the record remains active.

## Transcript Notations

In accordance with NYS Law, conduct involving crimes of violence, including, but not limited to sexual violence, and crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092 (f) (I) (F) (i) –(VIII), including murder, rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter, and arson) shall result in a transcript notation of suspension or expulsion from the college. A notation will be placed on the transcript of students found responsible of such conduct, after a conduct process, that they were suspended after a finding of responsibility for a code of conduct violation” or expelled after a finding of responsibility for a code of conduct violation.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, a notation will be made on the transcript that they “withdrew with conduct charges pending.” Appeals seeking removal of a transcript notation for suspension should be submitted, in writing to the director of collegewide student affairs. Such notation shall not be removed prior to one year after the conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## XXIV. SAFETY PROGRAMS AND SERVICES

The Office of Public Safety offers safety programs and services throughout the year and/or upon request. The focus of these programs and services changes depending on the need. Currently, the following are offered:

- **Violence Against Women Act and Workplace Violence Awareness and Prevention Training.** Offered by the Office of Public Safety and the Office of the President, the training session provides participants with information related to workplace violence, including risk factors, key elements, definition and types of workplace violence, and more. The Office of Public Safety also conducts training on Active Shooter Threat Awareness/Explosive Threat Awareness throughout the year, and is available to all locations statewide.
- **Publications.** Local police departments have various publications available that address problems such as date rape, alcohol abuse and theft. Listed on the Safety and Security website are various links to police agencies across New York that our locations operate within.
- **Lighting.** The college locations are routinely surveyed to ensure that exterior areas are adequately illuminated at night. Trees and shrubs that impair lighting along walks are trimmed as needed.
- **Building Security.** Each individual location operated by Empire State College utilizes various methods of building security. Personnel at college locations are instructed to report any suspicious situations to the police immediately.
- **Collegewide Public Safety Committee.** The committee will assess, evaluate and monitor the safety and security of the Empire State College community through information gathering, policy review and proposal generation to the administration. The committee is comprised of nine members of the college community and will consist of 50 percent women, one third students\* and one third faculty.\* [Reference SUNY Policy #5401] The committee will convene twice per year. They also will review and make recommendations concerning safety for the college community, meet with the president yearly, as well as submit an annual report.



**SUNY EMPIRE  
STATE COLLEGE**

Office of Public Safety  
2 Union Ave.  
Saratoga Springs, NY 12866-4390  
518-587-2100, ext. 2800

[www.esc.edu](http://www.esc.edu)